over conflicting laws; and declaring an emergency.

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Senate Resolution 131

Senator Rogers offered the following resolution:

Whereas, We are honored today to have as visitors in the Senate Messrs. V. C. Durrett, David Hudgins, Del E. Wells, and Ott E. Bevers of Lakeview, Texas, and C. L. Benson of Clarendon, Texas; and

Whereas, We desire to welcome these distinguished visitors to the Capitol Building and Capital City; now, therefore, be it

Resolved, That their presence be recognized by the Senate of Texas and that they be extended the official welcome of the Senate and extended the privileges of the floor for the day.

The resolution was read and was adopted.

Senator Rogers by unanimous consent presented the distinguished guests to the Members of the Senate.

Adjournment

On motion of Senator Hardeman the Senate at 11:57 o'clock a.m. adjourned until 10:30 o'clock a.m. tomorrow.

TWENTY-FIFTH DAY

(Thursday, February 26, 1959)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present:

Aikin	Lane
Baker	Martin
Bradshaw	Moffett
Colson	Moore
Crump	Parkhouse
Dies	Phillips
Fly	Ratliff
Fuller	Reagan
Gonzalez	Roberts
Hardeman	Rogers
Hazlewood	Secrest
Herring	Smith
Hudson	Willis
Kazen	Wood
Krueger	

Absent—Excused

Owen	Weinert

A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation as follows:

Holy Father, we bring before Thee our problems and our task, not to escape them, but praying for inner strength to carry heavy burdens. Give us eyes to see the truth, and the will to follow it fearlessly; and may we relax in the knowledge that Thou art our refuge and our strength through Jesus Christ, our Lord. Amen.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

Leaves of Absence

Senator Owen was granted leave of absence for today on account of important business on motion of Senator Hudson.

Senator Weinert was granted leave of absence for today on account of important business on motion of Senator Lane.

Reports of Standing Committees

Senator Hardeman submitted the following reports:

Austin, Texas,
February 26, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred S. B. No. 4, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do not pass and be not printed, but that Committee Substitute for S. B. No. 4 be reported to the Senate with the recommendation that it do pass and be printed.

HARDEMAN, Chairman.

C. S. S. B. No. 4 was read the first time.

Austin, Texas,
February 26, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred S. B.

No. 61, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass as amended, and be printed.

HARDEMAN, Chairman.

Austin, Texas,
February 26, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred S. B. No. 181, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HARDEMAN, Chairman.

Austin, Texas,
February 26, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred S. C. R. No. 17, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HARDEMAN, Chairman.

Austin, Texas,
February 26, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred S. B. No. 129, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HARDEMAN, Chairman.

Austin, Texas,
February 26, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred S. B. No. 27, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HARDEMAN, Chairman.

Senator Fly submitted the following reports:

Austin, Texas,
February 26, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: We, your Committee on Finance, to whom was referred S. B. No. 43, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

FLY, Chairman.

Austin, Texas,
February 26, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: We, your Committee on Finance, to whom was referred S. B. No. 207, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

FLY, Chairman.

Senator Lane submitted the following reports:

Austin, Texas,
February 26, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: We, your Committee on Jurisprudence, to whom was referred S. B. No. 47, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass as amended and be printed.

LANE, Chairman.

Austin, Texas,
February 26, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: We, your Committee on Jurisprudence, to whom was referred S. B. No. 197, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

LANE, Chairman.

Austin, Texas,
February 26, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: We, your Committee on Jurisprudence, to whom was referred S. B. No. 153, have had the same under consideration, and we are instructed

to report it back to the Senate with the recommendation that it do pass and be printed.

LANE, Chairman.

Senate Resolution 132

Senator Parkhouse offered the following resolution:

Whereas, We are honored today to have as visitors in the Senate Mr. Pat Gibbons and daughter, Jane, of Dallas; and

Whereas, We desire to welcome these distinguished visitors to the Capitol Building and Capital City; now, therefore, be it

Resolved, That their presence be recognized by the Senate of Texas and that they be extended the official welcome of the Senate.

The resolution was read and was adopted.

Senator Parkhouse by unanimous consent presented the guests to the Members of the Senate.

Message from the House

Hall of the House of Representatives
Austin, Texas,
February 26, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: I am directed by the House to inform the Senate that the house has passed the following:

S. C. R. No. 22, Texas Independence Day Celebration at Washington-on-the-Brazos, March 2, 1959.

H. C. R. No. 24, Granting Sid Richardson Refining Company permission to sue the State.

Respectfully submitted,
DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Senate Bills on First Reading

The following bills were introduced, read first time and referred to the committee indicated:

By Senator Moore:

S. B. No. 231, A bill to be entitled "An Act amending Chapter 397, Acts of the 54th Legislature, Regular Session, 1955, by adding thereto a new section to be numbered Section 2a; requiring that no policy of accident or sickness insurance shall contain a provision predicating payment of claims thereunder upon treatment or attendance of a physician who is a member of the County Medical Society; repealing all laws in conflict; and declaring an emergency."

To the Committee on Insurance.

By Senators Parkhouse and Herring:

S. B. No. 232, A bill to be entitled "An Act amending Chapter 402, Acts of the Regular Session of the Fifty-fifth Legislature (as heretofore amended), pertaining to the Employees Retirement System of Texas; declaring the Act to be severable; and declaring an emergency."

To the Committee on State Affairs.

By Senator Krueger:

S. B. No. 233, A bill to be entitled "An Act relating to the use, display, posting, maintenance, size, number, placement, contents, limitation and regulation of signs of the price of motor fuel posted, displayed or used on or about any premises or locations where motor fuel is sold at retail; requiring that the price shown on such signs include certain statements or information concerning the taxes included in the price; prohibiting price signs of motor fuel except as provided for in this Act and limiting the display of such signs to pumps and other dispensing devices; amending Title 14, Chapter 11, Penal Code of Texas, as amended, by adding thereto a new Article to be numbered Article 1108.1; containing a saving clause; repealing conflicting laws; and declaring an emergency."

To the Committee on Transportation.

By Senators Aikin and Herring:

S. B. No. 234, A bill to be entitled "An Act amending Chapter 75, Acts of the Regular Session of the 54th Legislature, to provide credit to Members of either the Teacher Retirement System or the Employees Retirement System of Texas for service rendered as either a teacher or auxiliary employee employed in the public schools, colleges or universities of the State, or as an appointive officer or employee of the State; for transfer of such service and/or funds between the Teacher Retirement System and the Employees Retirement System of Texas for purpose of providing retirement benefits for service and disability and for death benefits as provided under said retirement systems; and

authorizing the Board of Trustees of each system to jointly adopt all necessary rules and regulations not in conflict with this Act ;and declaring an emergency."

To the Committee on Education.

By Senator Lane:

S. B. No. 235, A bill to be entitled "An Act authorizing any and all agencies of the State of Texas to make transfers of personal property to one another with or without reimbursement; defining agencies; prescribing certain duties of the Comptroller of Public Accounts with regard to such transfers; providing other provisions relating thereto; providing that this Act shall be cumulative; and declaring an emergency."

To the Committee on State Affairs.

By Senator Hazlewood:

S. B. No. 236, A bill to be entitled "An Act amending Chapter 136, Acts of the Regular Session of the Fifty-fifth Legislature relating to the Hospital District covering the City of Amarillo; validating said district and the appointment of the Board of Hospital Managers; enacting other provisions related to the subject; and declaring an emergency."

To the Committee on Public Health.

By Senator Hazlewood:

S. B. No. 237, A bill to be entitled "An Act relating to Trust Receipts and Trust Receipt Transactions and to make uniform the law with reference thereto; citing the Act as the 'Texas Uniform Trust Receipts Act'; providing a saving clause; and declaring an emergency."

To the Committee on Jurisprudence.

By Senator Gonzalez:

S. B. No. 238, A bill to be entitled "An Act providing that teachers and other employees of the public school system of Texas or State supported institutions of higher learning shall not be required to participate, nor prevented from participating in political activities at any level; providing that such political activity or failure to participate shall not be considered as a condition of employment, rehire, contract extension or discharge from employment; providing such persons are expressly prohibited from using school time, equipment, or funds for the furtherance of any political group or party; repealing all statutes in conflict; providing this law shall be cumulative; providing for severability; and declaring an emergency."

To the Committee on State Affairs.

By Senator Wood:

S. B. No. 239, A bill to be entitled "An Act regulating the importation of camellia plants and flowers into the State of Texas; and declaring an emergency."

To the Committee on Agriculture and Livestock.

By Senator Hazlewood:

S. B. No. 240, A bill to be entitled "An Act providing that one who qualified for and is issued an operator's license by the Department of Public Safety has the right to drive a vehicle as a matter of law as distinguished from a privilege, providing such right shall cease only under certain conditions; repealing all laws in conflict herewith; and declaring an emergency."

To the Committee on Jurisprudence.

Senate Resolution 133

Senator Herring offered the following resolution:

Whereas, We are honored today to have in the gallery of the Senate First Grade Classes of Ridgetop School, Austin, Texas, accompanied by their teacher or sponsor, Mrs. Mayo and Mrs. Cooke; and

Whereas, These students are on an educational tour of the Capitol Building and the Capital City; and

Whereas, This fine group of young American citizens is here to observe and to learn firsthand the workings of their State government; now, therefore, be it

Resolved, That we officially recognize and welcome these guests and commend them for their interest; and that a copy of this resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Herring by unanimous consent presented the students, sponsor and teacher to the Members of the Senate.

Bills and Resolutions Signed

The President signed in the presence of the Senate after the captions had been read, the following enrolled bills and resolutions:

S. B. No. 16, A bill to be entitled "An Act amending Chapter 66, Acts of the Fifty-fourth Legislature (being the law creating West Central Texas Municipal Water District) by adding a provision with reference to annexation of additional territory; repealing Section 22 of said chapter; making a further provision with reference to the clerical error of omitting the word 'water' from the name of the district specified in said chapter; and declaring an emergency."

S. B. No. 34, A bill to be entitled "An Act making it unlawful except under the provisions of this Act, for any person to hunt, take, kill or attempt to kill, or possess, any game bird or game animal in Tarrant County at any time; to take, kill or trap or attempt to take, kill or trap any fur-bearing animal in said county or to take or attempt to take any fish or other aquatic life or marine animals from said county by any means or method; providing the powers, duties and authority of the Game and Fish Commission; etc.; and declaring an emergency."

S. B. No. 108, A bill to be entitled "An Act relating to the construction and operation of the jury wheel; amending Article 2095, Revised Civil Statutes of Texas, as amended; and declaring an emergency."

S. C. R. No. 20, In memory of Mr. Hubert M. Harrison.

S. C. R. No. 22, Relative to Texas Independence Day at Washington-on-the-Brazos on March 2, 1959.

Senate Resolution 134

Senator Hardeman offered the following resolution:

BE IT RESOLVED by the Senate of Texas that the American Bar Association acting through its House of Delegates be commended for its action in adopting the report of its Committee on Communist Tactics, Strategy and Objectives dealing with the decisions of the Supreme Court of the United States on communism during the past two years and urging the Congress to tighten the laws designed to curb Communists, and be it further

Resolved, That copies of this resolution, under the seal of the Senate be forwarded by the Secretary of the Senate to the President of the American Bar Association, to Honorable Peter Campbell Brown of New York, Chairman of the Committee on Communist Tactics, Strategy and Objectives and to Honorable Leo Brewster, Fort Worth, Texas, President of the State Bar of Texas, and to the Chairman of the House of Delegates of the American Bar Association.

The resolution was read.

Senator Hardeman addressed the Senate relative to S. R. No. 134 as follows:

Mr. President and Members of the Senate:

I am grateful, of course, for the action of the Senate in inviting the insertion of my remarks on Senate Resolution 134 in the Journal. While I doubt the merit of preserving my remarks, which were not anticipated, on my part, until the question by the Senator from Bell seeking an explanation of the resolution, since I only wrote the two-paragraph resolution a few minutes before the Session convened, which accounts for the absence of the usual "Whereas" clauses. Nevertheless, and without the inspiration of the occasion, I shall try to comply with the motion to some extent, at least, not forgetting my responsibility in so doing. This will, in part, explain the difficulty of trying to reproduce so-called "extemporaneous" remarks, if such there be, in fact.

Incidentally, Mr. President, I address my remarks principally to the "Viceroy smokers" because of their particular designation on screen and air as "thinking men."

This resolution is merely commendatory. It contains no proposals, criticisms or requests. That it relates to an important matter can hardly be denied.

The American Bar Association's Special Committee on Communist Tactics, Strategy and Objectives, headed by Honorable Peter Campbell Brown of New York, spent considerable time, as the result of the tendency of the Supreme Court of the United States to be soft on Communism and Communists, in compiling and studying various opinions of the Court, relating

thereto during the past two years. (Any reference I shall make to the "Court" means the United States Supreme Court, unless otherwise indicated.)

The report was presented to the House of Delegates of the Bar Association and, on yesterday, that body, composed of some two hundred and forty-six (246) lawyers from every State of the Union, including my good friend and constituent, Hon. Maurice Bullock of Fort Stockton, Texas, member of the Texas Securities Commission, and former President of the State Bar of Texas, adopted recommendations somewhat critical of some decisions of the Court involving features of Communism and affecting our internal security. The House of Delegates, as I understand it, is the policy-making body of the American Bar Association. It is comparable to a Board of Directors of an organization or corporation, in its functions.

I do have a list of the cases which were the basis of the Committee report and the subsequent adoption of recommendations by the House of Delegates, to which I shall refer.

With your indulgence, Mr. President and Lady and Gentlemen of the Senate, I shall mention some of these, together with others, which I may recall.

Let me say here that actually, and doubtless, to the surprise of many, the criticism of the Court's decisions, involves cases that have no relation whatsoever to the segregation issue, although the opinion in Brown v. Board of Education, 347 U. S. 483, nullified the laws of 17 states with a half-century of judicial approval. (Plessy v. Ferguson) and with no sounder basis than the sociological and psychological reasons advanced by Gunnar Myrdal, a communist foreigner who wrote in his "The American Dilemma" (1944), that our Constitution "is in many respects impractical and ill-suited for modern conditions" and that it was "nearly a plot against the common people." Yet it was this alien doctor" — Karl Gunnar Myrdal — whose views were relied upon to sustain the political, sociological and psychological, prejudicial opinion of the Court in the Brown case, as well as in nullifying the miscegenation statute of California in the case of Lippold v. Perez by the Supreme Court of California. So much better it would be for the Court to cite the Bible, the Declaration of Independence and the Constitution, together with the glorious events in the history of our country, and established precedents, in support of its decisions, than the conclusions of a person of such questionable ability and lack of patriotism, as its authority.

What we need, if I may suggest, is some one-way tickets for some high-ranking, internationally-minded officials of the United States, to the arms of these great foreign socialists and the "ill-fare" States across the Atlantic.

There is the case of Communist Party v. Subversive Activities Control Board, 351 U. S. 115, in which the Court refused to uphold or pass on the constitutionality of the Subversive Activities Control Act of 1950, thus, apparently, deliberately shirking its sworn duty and delaying the effectiveness of the Act.

In the sedition case of Pennsylvania v. Nelson, 350 U. S. 497, the Court outlawed all state penal laws against subversive activities on the specious theory that the Congress had "pre-empted" that field of legislation by its enactment of a law prohibiting knowing advocacy of overthrow of the government by force. States, it seems to me, can become as much a target of seditionists as Washington can. This one decision invalidated the sedition laws of forty-three States and Hawaii. The principle could well extend to any number of other State enactments, as I will later point out, time permitting.

Now, we have laws in Texas governing Communists and set up a $90,000 appropriation a few years ago for some enforcement, upon the representations that we had Communists at work here who were known to the Department of Public Safety officials, but so far as I have been able to learn not a single Communist has ever complied with our laws requiring registration and none has been charged or convicted of its violation. (I won't ask "where did the $90,000 go?") This was before the Nelson case invalidated our local law, incidentally. An accounting now might even be in order.

Then there was Yates v. United States, 355 U. S. 66, from California. (Now, with reference to that State, I recall the statement of the able Senator from Shelby (Senator Lane), last Tuesday, in the Constitutional Amend-

ments Committee when someone cited California as an example of greatness and progress when he said "You can change about three Statutes in California and it will fit right in with Russia."

At this point Senator Lane interposed the question, "You can't criticize Chief Justice Warren, can you, for looking after his own interests while Governor of California?" Reference was to a bill, sponsored by then Gov. Warren, providing a $16,000 annual pension for life for himself and added: "A lot of people have been sent to prison for doing less to the public treasury.")

Senator Hardeman: Senator, Chief Justice Warren is on the Court as a result of a dirty political trade in 1952 when he switched the sixty-two (62) California votes at Chicago from Taft—one of the "Famous Five," of all the United States Senators—to Eisenhower. Thus, he went on the highest Court of the land wholly unqualified, with limited integrity and without prior judicial experience to any degree. That is the sordid history of "the great Republican Chief Justice, Earl Warren" to quote his California crony Richard (My Boy) Nixon who, likewise, was forced to parade his fine wife and his little dog "Checkers" before a television audience later that year to "explain" a little matter of an $18,000 financial transaction. One thing that may be said of these two California Republicans is that their conduct and chicanery has thus far paid off. But I wonder about their peace of mind as the mantle of night is drawn about them and they retire to the privacies of their own boudoirs. I also call to mind the rumored "rift" between Gen. Eisenhower and the Chief Justice, both of whom have found it expedient to deny, but authoritative sources insist on the ever-widening existence thereof. I am neither surprised, nor perturbed. Such could only be expected as the result of this type of political trade-bargaining and bartering the people's rights to gain political office. It fixes the caliber of the principals, despite the high-sounding phrases of purity heard during the campaign. And here may I refer to Mr. Warren's favor to the American Bar Association, recently, in resigning therefrom. It will be healthier as the result. It is too bad he doesn't follow that other little paragon of vicunan purity "Sherm the Firm," into political oblivion, but I suppose Mr. Eisenhower needs him, too.

But back to the Yates case in which the Court reversed two lower Federal Courts and ruled that teaching and advocating forcible overthrow of our government, and I quote, even "with evil intent," was not punishable under the Smith Act as long as it was, and I again quote "divorced from any effort to instigate action to that end," and ordered five Communist Party leaders freed and new trials for another nine.

Now I want to make the observation, Mr. President, that such a conclusion to me is utterly silly. Even Brother Warren couldn't stomach that. Along with Black and Douglas he said, "This case is a shocking abuse of judicial authority without precedent in the books." Coming from them, this is quite a concession. I know that teaching and advocating the forcible overthrow of our government is designed to instigate or initiate action to that end. Our revolutionary forefathers advocated freedom and independence from the tyranny of the British Crown long before the battle of Concord and Lexington in 1775. Had it not been for the inspiring addresses and written pleas of such patriots as James Otis, Sam Adams, Patrick Henry, Tom Paine and others, liberty and independence on the North American continent would have been delayed. Their counterpart was found in Mexico a few years later in the person of Miguel Hidalgo who fanned the smoldering embers of freedom and inspired his followers even in the unsuccessful assault on the prison at Dolores on Diez y Seis, September 1810, but resulting in the independence of Mexico eleven years later, as she threw off the yoke of Spanish tyranny.

Back to these "Communists"—why would they want to teach and advocate forcible overthrow of our government if they didn't hope to see it accomplished? Surely no one is so naive as to think it was for the purpose of providing a well-rounded course in political science. Only the Court appears not to know that world domination is the goal of the Kremlin.

The next case is that of Cole v. Young, 351 U. S. 536, in which two lower Federal Courts were reversed by the Supreme Court—and I interject, apparently, for their patriotism and loyalty to the United States—and held that although the Summary Suspension Act of 1950 gave the Fed-

eral Government the right to dismiss employees "in the interest of the national security of the United States," it was not in the interest of national security to dismiss an employee who contributed funds and services to an admitted subversive organization, unless that employee was in, and I quote, a "sensitive position."

Sensitive, or otherwise, what right does a subversive have to draw taxpayers' money, regardless of position.

Just here I should like to reminisce a little. In the latter part of 1952 the United States Senate Internal Security subcommittee forced the dismissal, through exposure, of a large number of disloyal employees of the United States, mark you, at the United Nations. This followed close on the announcement of a Federal grand jury in New York that it found "widespread infiltration of American Reds into the world organization."

I recall the "Oath of loyalty" of the U. N. which required "loyalty" to the United Nations, not the United States, with "the interests of the U. N. only in view and not to seek or accept instructions in regard to the performance of my duty from any government or authority external to the organization."

One can imagine how little effect this "world-oath" would have on the Soviet employees and their satellites. Do you think they would refuse to "seek or accept" instructions from the Kremlin? One such refusal, or inadvertence, to "seek or accept" orders from Khruschev, the Murderer of Moscow, or Mikoyan, the Butcher of Budapest, likely, would be most unhealthy, if not fatal, to such errant comrade.

Is there any valid reason, sir, why our thousands of employees at the United Nations should not be loyal to the United States above all else? Yet they are "sworn" to not "seek or accept" instructions from their employer regardless of how inimical to the interest of the United States any proposed U. N. action may be or how adversely United States interests may be affected. As for me, that kind of "rot" is for the birds.

Then there is the case of Service v. Dulles, 354 U. S. 363, mentioned in the report, which reversed a couple of inferior Federal Courts, which had refused to set aside the discharge of John Stewart Service by the State Department—then under the direction of Mr. Dean Acheson as Secretary of State. There was no doubt of the disclosure by Service of top-secret military plans to the editor of the Communist magazine Amerasia, in whose offices the F.B.I.—your old organization, Senator from Bell—had earlier found large numbers of secret and confidential State Department documents. Mr. Acheson fired Service under the provisions of the McCarran Act, which gave the Secretary of State absolute discretion to discharge any employee in the interest of the United States, but the Supreme Court said, in effect, "No, you can't fire that traitor." Now, "Ain't that something?" as Andy would say.

Then came the Slochower case, 350 U. S. 551, which overturned a decision by New York's highest court and virtually repealed a section of New York City's Charter, requiring the dismissal of municipal employees who refused to answer questions asked by legally constituted bodies. This opinion cast a cloud over similar laws elsewhere, as well as a protective cloak over employees who choose to be less than honest and forthright.

In Sweezy v. New Hampshire, 354 U. S. 234 the New Hampshire Supreme Court was reversed and the Attorney General of New Hampshire was held to be without authority to question Bro. Sweezy, a lecturer at its State University, concerning a lecture and other suspected subversive activities. Such questions as "Did you advocate Marxism at that time?" and "Do you believe in Communism?" were held to be properly refused an answer by Sweezy. Thus, New Hampshire, the home of the former vicuna-clad Assistant President, Sherman Adams, so sorely needed by the Chief Executive, couldn't question a suspected disloyal lecturer in its employ.

Ah! The Court is going great, clear across the United States, to paraphrase another slogan of radio and television, in its reckless disregard of the Nation's security with its non-certified opinions.

But there are other cases cited and I hasten to point them and others out.

There was the Witkovich case, 353 U. S. 194, which denied the Attorney General of the United States the prerogative to inquire of certain aliens whether they had attended any Communist party meetings.

The Schware case, 353 U. S. 232, was reversed, and the Board of Examiners of New Mexico ordered to

let Schware take an examination in New Mexico, even though he had given his loyalties to the Communist Party for six or seven years during a period of responsible adulthood. The New Mexico Board refused the examination on the grounds that such constituted Schware a person of "questionable character." Appears rather plausible, the Board's action.

Virtually the same result was reached in Konigsberg v. State Bar of California, 353 U. S. 252, where it was held unconstitutional to deny a law license to an applicant who refused to answer whether he is a Communist when asked by the Bar committee.

In Jencks v. United States, 353 U. S. 657, the Court reversed two Federal Courts, including one presided over by Judge R. E. Thomason, a former Mayor of El Paso, a former Speaker of the Texas House of Representatives, a long-time member of the U. S. Congress and for the past ten or so years, one of the most human, able and respected members of the Federal Judiciary—and held that Jencks, who was convicted of filing a false non-Communist affidavit must be given the contents of all confidential F. B. I. reports which were made by any government witness in the case, and this, mind you, even though Jencks "restricted his motions to a request for production of the reports to the trial judge for the judge's inspection and determination whether and to what extent the reports should be made available." From here the majority of the Supreme Court simply "took off." This "restricted motion" provided a real field day and F. B. I. files were bared for the disloyal with judical sanction. Be it said to his credit that Mr. Justice Clark, from Texas, vigorously, and almost in language calculated to offend, dissented in this and other cases involving the internal security of our country. For such he deserves and will receive the commendation of history.

Perhaps, I have detained you long enough. However, I believe the significance of the matter justifies the continuation of the discussion. There are additional cases included in the report along the same or similar lines. With only a couple or so other citations and some pertinent observations, I shall conclude these remarks.

There was earlier mention of the Yates case. Well, there was a second appeal and the Court reversed two lower Federal Courts and held that the refusal of Communist Party member Yates to "answer eleven questions about Communist membership of other persons" did not constitute eleven contempts and in a third appeal by Yates, the Court again reversed two lower Federal Courts and held that Yates' contempt sentence of one year should be reduced to fifteen days already served. Apparently, the Court didn't want to impose "cruel and inhuman punishment" on this Communist rat.

The dissenting justices in Bonetti v. Rogers, 356 U. S. 691, charged that the construction given the Internal Security Act of 1950, by the majority reads the words "at anytime" out of the Act and the word "last" into the statute, thereby crippling the effectiveness of the Act. Now, that is not Hardeman talking. That is the charge of their judicial colleagues. Did you ever think that Supreme Court Judges would so emasculate a solemn enactment by a coordinate branch of the government? Listen, my friends, you don't have to leave Texas to get a sample of "judicial legislation" on a variety of subjects.

The opportunity for "bench-law," unfortunately and regrettably, has been prostituted by those "drest in a little brief authority" and impressed with their own importance, which might properly be designated "pomposity," as they contravene constitutional principles and substitute a "government of men for a government of laws." Certainly, as Mr. Justice Holmes, said, judges do not have carte blanche "to embody our economic and moral beliefs" and thus abrogate the law as is now the well-practiced trend.

Too many appointed judges,—and some elected—and Board members and bureaucrats with judicial and quasi-judicial power engage in sociological, psychological, economic and political speculation under the guise of dispensing justice, which results in the degeneration of judicial and administrative integrity and responsibility beyond the realm of ordinary repair and which demands bold and decisive action.

(Senator Dies interposed the question whether the Supreme Court has so far exceeded its functions that it has become another legislative body

and what may be done to correct the evil.)

Senator Hardeman: I appreciate the interest of the Senator from Angelina. It is good to have one of his demonstrated ability in this body. Here is opportunity for equally patriotic service as that rendered by his distinguished father in the National Congress when he foresaw, and sought to challenge, the march of subversion and inimical assaults on our country before World War II. It was only a short time ago, in fact January 19, last, when this body adopted a Resolution, offered by the Senator from Tarrant, memorializing the Congress to defeat a proposal by the unfortunate and misguided son of the late President Franklin Roosevelt to dissolve the House un-American Activities Committee. I refer, of course, to son Jimmy, a member of Congress, from nowhere else than smoggy California.

Yes, Senator, I think it is obvious that all too often some politically-minded judges of both types—elected and appointed—have resorted to judicial legislation and hilariously engaged in bench-law for an "outward expression of an inward feeling." These "little Caesars" take advantage of their positions, more of which should be temporary, rather than arrogate unto themselves life-tenure or succession by "divine right." As you said "Power absolute corrupts absolutely." I recall another expression to the effect that "Fortune does not change men; it unmasks them."

Mr. President, of course, something may be done about it, as the Senator from Angelina asks. There is the possibility of impeachment, and this has been exercised in too few instances. The practice does not seem to reach high enough. This is fraught with considerable difficulty, as it should be.

Another effective way would be to limit the tenure—let the elected representatives of the people take a look, say at 6, 10 or even 12 year intervals.

It has been well said that "a frequent recurrence to the will of the people is a wholesome thing." It certainly has a tendency to keep an official on his toes, so to speak. Generally, those who must return to the source of all governmental power, under our form of government, namely, the people, continue to be the most responsive to the public weal. Failure to do so soon results in the termination of their "great" public service. Human selfishness, seemingly, has a tendency to grow great and wax fat, when given authority. It finally ripens into a self-developed attitude of indispensability and then tyranny becomes the order of the day. Unrestricted tenure—designed to assure independence—not infrequently, has been prostituted to serve expediency and the whim and caprice of the individual who often assumes the "untouchable, all-wise" characteristics of would-be dictators. The closer to the people officials are kept the gentler they will be.

A few years ago I published an article entitled "Is the High Court a Political Body" in the San Angelo Standard-Times. In it I made no criticism of the Court, as an institution, and I make none such today. I recalled therein the prophetic words of the brilliant French scholar and Statesman, de Tocqueville, which I repeat, in substance, now, who said in his "Democracy in America," about 1834, writing of the Supreme Court that "as long as its members are men of high intellect and integrity the Court will be a bulwark. If it ever becomes a political body, it will endanger the whole structure." Perhaps, this appraisal was in the minds of the Committee members and the House of Delegates of the Bar Association in connection with its report and subsequent adoption.

Let me assure you, Mr. President, that I do not accept the specious theory of the infallibility of the Court. Criticism of judicial action does not mean lack of respect for the Courts. I think it was one of the truly great judges—either Chief Justice Stone or Judge Learned Hand who said, in substance, that the only protection against unwise decisions and judicial usurpation is careful scrutiny of their actions and fearless comment upon it. This Chief Justice Warren cannot accept. He is too vulnerable. His attitude seems to be that his actions are so sacrosanct as to be above and beyond criticism. I think it was Judge W. L. Davidson of our formerly great Court of Criminal Appeals, who said that "the courts may go wrong, but the lawyers won't let them stay that way."

I doubt that a better system than the judicial processes we have for the determination of constitutional issues and the preservation of consti-

tutional limitations and guarantees can be devised. My concern, and, apparently, that of the representatives of the American Bar Association is the marked trend towards centralization of powers in Washington which necessarily means the destruction of States' rights and local self-government in total disregard of both the Ninth and Tenth Amendments. It was Gen. Washington who likened government to fire when he said, "Government is like fire, a dangerous servant; a fearful master."

We need to keep the little fires burning in each of the forty-nine states and not to have a great holocaust or conflagration on the banks of the Potomac.

Time, and lack of my files and material, preclude a reference to the numerous instances of what I have sometimes called "injudicial chiseling" of the Ninth and Tenth Amendments, and the prostitution of the "general welfare" phrase found only in the preamble, and of the "interstate commerce clause," of the Constitution to support sociological and economic practices violative of natural laws, such as the law of supply and demand.

Why, only a day or so ago the Court, summarily and, apparently, arbitrarily and high-handedly, denied a young Texan even a mere hearing, because he raised some wheat for cattle feed—none of which was moved, or intended for shipment, in interstate commerce, but simply in violation of a capricious and inequitable bureaucratic regulation by a statutory agency of the government. This also calls to mind the case of Stanley Yankus of Michigan, who was likewise deprived of, and denied, his rights as a so-called free-American. I understand he is considering removing to Australia in search of that liberty denied him in his native land. These are terrible imputations in a land founded by freedom-loving people. It makes me sad, indeed, to ponder the future for my boys and others like them.

Actually, Mr. President, I blame the Congress more than anyone else for our dilemma. Instead of truly representing the States as Senators were, and are, supposed to do, and the people, as Representatives were, and are, supposed to do, they have joined, to surrender the rights of the States and the people, respectively, to bureaucracy and for political expediency. Their great retirement benefits, apparently, provide the incentive for their actions, with no thought of the creeping paralysis of socialism with its inherent danger to freedom and free enterprise.

And, the people, harassed and annoyed, unfortunately, have endorsed the welfare programs either through apathy or selfishness. Oh! it would take some dauntless courage to shake off the shackles of paternalism and return to individual endeavor. This I know, well. We may not live to see it, but down the line this Nation will come face to face with disaster, if it continues to travel the primrose path of political expediency with the reckless abandon that characterized the nations of history with whose rise, zenith and decline many are familiar, but few raise their voices to prevent.

I am aware, Members of the Senate, of my repeated departures in this discussion, and I seek your continued indulgence. And to submit another and third alternative for relief, as earlier queried by Senator Dies, I suggest immediate Congressional action. This is not original with me, nor with the Committee of the Bar Association. It has been successfully employed, on occasion in the past, as well as "played with" at other times. In the latter category—and this comes to mind because of the peculiar relation it bears to us all—is the so-called "Submerged Lands Act" of 1953 which sought to override the decision of the Court in the Texas Tidelands case (339 U. S. 711). That this, so far, has been unsuccessful is well-known, despite assurances, as late as yesterday or the day before, by the Governor that our Tidelands are, in effect, safe. Some of you recall, as I am sure the Governor and the Dallas News will, the remarks I made on this subject at the special Session late in 1957. I said then that the vague and indefinite language of the 1953 Act led to the instant suit by the Attorney General to steal the tidelands. I was jumped on mightily, at the time, but about a week or ten days later President Eisenhower came to my "aid" by releasing a letter to Mr. Jack Porter, Republican National Committeeman from Texas, confirming my appraisal of the Daniel bill and said it left the "law ambiguous so that the matter had to be litigated." (Funny thing, everybody, including the Dallas News, believed it when Eisenhower, whom Gov. Daniel supported, said it, but insisted I merely "popped off" and owed Governor Dan-

iel an "apology" because I had said it was vague and indefinite, about a week before Mr. Eisenhower mentioned it.) (This indicates I, too, might be a "Viceroy Smoker"—a "thinking man"—ahead of the time.)

Now, Mr. President, vague, indefinite and ambiguous laws, such as the Submerged Lands Act of 1953, clearly are not the answer to Senator Dies' inquiry. On the contrary, we need the bold and decisive action earlier mentioned based on definite and unmistakable language. Everyone except Judges Morrison and Woodley, of the present Court of Criminal Appeals, knows that a vague and indefinite statute is inoperative as provided in Article 6 of the Penal Code of Texas. Read it, sometime.

The Congress is empowered, can and should restore the power of the States to enforce their own laws against subversion and sedition, for example, overrule the foolhardy doctrine of "pre-emption" lest it completely undermine every other "field" in which there may be "dual" legislation. This could well include taxation of various items such as cigarettes, liquor, gasoline, etc., and thus paralyze state government through judicial debauchery.

Why, shouldn't it be a crime to advocate forcible and violent overthrow of our government? Only the "nine old men" think otherwise. This, the Congress could and should change, and now.

Why, should a traitor be employed, whether in a "sensitive" or "insensitive" position? Surely the Congress is charged with the duty of protecting and preserving our form of government, if it is charged with anything other than preserving retirement benefits and nepotism.

It grieves, as well as frightens, me to think about the attitude of the Court and its relation to its responsibilities to our country as reflected in some of its recent decisions. If I, alone, were the only one in this situation, I should think there is something wrong with me. I am more disturbed at conditions because of the high caliber and ability of those who indicate similar feelings.

Criticism of the judgments of the Court by respected members of the Judiciary and the Bar, emphasize the necessity of action. I think, ultimately, this will have its effect, despite the inertia, or the lack of action, by the Congress. I just hope the Bar will not cease in its efforts to bring about the elimination of judicial tyranny and halt the usurpation of constitutional government by "bench-law."

If the judiciary is permitted to "get away" with chiseling on the Constitution and the usurpation of powers not reasonably granted it, then what may we expect of the "little Caesars" and would-be dictators of appointed Boards and Bureaus. They will be wholly without restraint, and history has often demonstrated the inability of this type official to recognize the inherent dangers lurking in an exaggerated sense of one's own importance and indispensability.

In our original system of checks and balances it was the Courts upon which the people were to rely to keep secure the Constitutional guaranties of the people against the tyranny of temporary bureaucrats and the political passions of the Congress and State Legislatures.

That is one reason I am disappointed in the action of the Supreme Court of Texas in the Southern Canal case, recently before it. The Texas Court totally disregarded the Act of the Legislature authorizing appeals from administrative Board orders—whether arbitrary or otherwise—providing trials de novo and adopted the "plan" of the Supreme Court of the United States to deny a citizen a full and, in many instances, no hearing by the invocation of the fairly recent specious doctrine of "substantial evidence." Then it failed and refused, after an inference, to determine whether the authorization of an appeal in such instances and a trial de novo, as that term was once literally understood and followed, violated Article II of the Constitution, relating to the separation of the powers of government. Now, the matter of an appeal in such cases is in doubt. That is going just a little too far in "aloofness" to suit me. This is truly the Washington "trend."

The judges in this State, thank goodness, all have to run, voluntarily, for the bench—ostensibly to serve all the people, but once the robes of judicial authority are drawn around them, many seem to forget that their duty is to determine issues—not evade or avoid them—I hope not to lessen their labors or assert their vast authority and arrogated power.

I believe a little soul-searching on

the part of all of us chosen to serve or represent the people is long overdue. This goes for all departments of government.

I offer no apology for this expression of my views and certainly I have only the highest regard for various individual members of the Courts and other departments. Such shall not deter me, however, in expressing my views publicly, as I have done privately, on many occasions, as various ones will attest.

I find ample constitutional and judicial authority for the expression of my views—not, necessarily, the views I express.

It was Mr. Justice Brewer who said that "many criticisms of the Court may be devoid of good taste, but better all sorts of criticism than no criticism at all."

Of more recent vintage are the words of Mr. Justice Frankfurter, in the notorious Harry Bridges case, to the effect that just because holders of judicial office are identified with the interests of justice "they may forget their common frailties and fallibilities." He said judges must be kept mindful of their limitations and of their public responsibility by a "vigorous stream of criticism expressed with candor, however blunt."

I know I have trespassed on your time long enough, although there is much more I should like to say. Perhaps, another day.

I think the adoption of the resolution I have offered will encourage patriotic lawyers of our country to take the lead in restoring to the Court the respect to which it is entitled, as an institution.

I move its adoption, Mr. President.

Pending discussion by Senator Hardeman of S. R. No. 134, Senator Kazen occupied the Chair.

(President in the Chair.)

S. R. No. 134 was then adopted.

Senate Bill 207 Ordered Not Printed

On motion of Senator Hudson and by unanimous consent S. B. No. 207 was ordered not printed.

Senator Hardeman to Read the Declaration of Independence

The President announced pursuant to the provisions of S. R. No. 50 previously adopted by the Senate that Senator Hardeman would read The Texas Declaration of Independence on March 2, 1959, to the Senate of Texas.

Message from the House

Hall of the House of Representatives
Austin, Texas,
February 26, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S. B. No. 46, An Act amending Article 8274 of the Revised Civil Statutes of Texas of 1925, as amended, relating to the rate of pilotage for draws, which may be fixed under Articles 8267 and 8269 on any class of vessels in any port of the state so as to include the Port of Galveston; providing a repealing clause; and declaring an emergency.

S. B. No. 67, An Act constituting a local law for the further maintenance of public highways, by authorizing the Commissioners Court of Gaines County to expend proceeds of road bonds heretofore and hereafter voted by said county for the purpose of providing for drainage of state highway rights-of-way and adjacent lands where such drainage is made necessary by the construction, widening or improvement of such highways; enacting other provisions relating to the subject; and declaring an emergency.

S. B. No. 182, An Act to amend Article 908, Chapter 6 of the Penal Code of Texas, as amended, to provide a non-resident license for use only on state-licensed shooting resorts from October 1st to April 1st; to set the shooting resort season on quail at October 1st to April 1st, the same period as for chukar, pheasant, or any other pen-raised fowl; and declaring an emergency.

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

House Bill 85 on Second Reading

Senator Herring moved that Senate Rules 116, 38 and 13 and Section 5 of Article III of the State Constitution be suspended and that H. B. No. 85

be taken up for consideration at this time.

The motion prevailed by the following vote:

Yeas—27

Aikin	Martin
Bradshaw	Moffett
Colson	Moore
Crump	Parkhouse
Dies	Phillips
Fly	Ratliff
Fuller	Reagan
Hardeman	Roberts
Hazlewood	Rogers
Herring	Secrest
Hudson	Smith
Kazen	Willis
Krueger	Wood
Lane	

Absent

Baker	Gonzalez

Absent—Excused

Owen	Weinert

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 85, A bill to be entitled "An Act repealing Article 252 and Articles 262 through 269 of the Penal Code of Texas, 1925, relating to election campaign expenditures and statements; and declaring an emergency."

The bill was read second time and was passed to third reading.

House Bill 85 on Third Reading

Senator Herring moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that H. B. No. 85 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Hardeman
Baker	Hazlewood
Bradshaw	Herring
Colson	Hudson
Crump	Kazen
Dies	Krueger
Fly	Lane
Fuller	Martin
Gonzalez	Moffett
Moore	Rogers
Parkhouse	Secrest
Phillips	Smith
Ratliff	Willis
Reagan	Wood
Roberts	

Absent—Excused

Owen	Weinert

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

House Bill 119 Postponed

On motion of Senator Ratliff and by unanimous consent H. B. No. 119 was postponed until Wednesday, March 4, 1959, following the Morning Call.

Remarks of Senator Hardeman Ordered Printed in Journal

On motion of Senator Willis and by unanimous consent Senator Hardeman was requested to revise and reduce his remarks on S. R. No. 134 to writing and that the remarks be printed in the Journal.

Leave of Absence

Senator Baker was granted leave of absence for the remainder of the day on account of important business on motion of Senator Dies.

Senate Bill 207 on Second Reading

Senator Hudson moved that Senate Rules 116, 38 and 13 and Section 5 of Article III of the State Constitution be suspended and that S. B. No. 207 be taken up for consideration at this time.

The motion prevailed by the following vote:

Yeas—25

Aikin	Kazen
Bradshaw	Krueger
Colson	Lane
Crump	Martin
Dies	Moffett
Fuller	Moore
Gonzalez	Phillips
Hardeman	Ratliff
Hazlewood	Roberts
Herring	Rogers
Hudson	Secrest

Smith Wood
Willis

Nays—1

Parkhouse

Absent

Fly Reagan

Absent—Excused

Baker Weinert
Owen

The President laid before the Senate on its second reading and passage to engrossment:

S. B. No. 207, A bill to be entitled "An Act amending House Bill No. 133, Acts of the 55th Legislature, Regular Session, 1957, by providing additional purposes for which the monies appropriated to the Texas Liquor Control Board may be expended, and declaring an emergency."

The bill was read second time and was passed to engrossment.

Senate Bill 207 on Third Reading

Senator Hudson moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that S. B. No. 207 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—26

Aikin Krueger
Bradshaw Lane
Colson Martin
Crump Moffett
Dies Moore
Fly Phillips
Fuller Ratliff
Gonzalez Roberts
Hardeman Rogers
Hazlewood Secrest
Herring Smith
Hudson Willis
Kazen Wood

Nays—1

Parkhouse

Absent

Reagan

Absent—Excused

Baker Weinert
Owen

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—27

Aikin Lane
Bradshaw Martin
Colson Moffett
Crump Moore
Dies Phillips
Fly Ratliff
Fuller Reagan
Gonzalez Roberts
Hardeman Rogers
Hazlewood Secrest
Herring Smith
Hudson Willis
Kazen Wood
Krueger

Nays—1

Parkhouse

Absent—Excused

Baker Weinert
Owen

House Bills and Resolutions on First Reading

The following bills and resolutions received from the House, were read the first time and referred to the Committees indicated:

H. C. R. No. 24, To the Committee on Jurisprudence.

H. J. R. No. 6, To the Committee on Constitutional Amendments.

H. B. No. 23, To the Committee on State Affairs.

H. B. No. 111, To the Committee on Game and Fish.

H. B. No. 115, To the Committee on Privileges and Elections.

H. B. No. 135, To the Committee on Agriculture and Livestock.

H. B. No. 187, To the Committee on Agriculture and Livestock.

Adjournment

On motion of Senator Hardeman the Senate at 11:50 o'clock a.m. adjourned until 10:30 o'clock a.m. on Monday, March 2, 1959.

Record of Votes

Senators Phillips and Krueger asked to be recorded as voting "Nay" on the motion to adjourn.

In Memory of

J. R. Edwards

Senator Willis offered the following resolution:

(Senate Resolution 135)

Whereas, The calling of J. R. Edwards to his Eternal Reward on the twenty-sixth day of April, nineteen hundred and fifty-eight, has deprived Tarrant County and Texas of one of its most active and beloved citizens; and

Whereas, Mr. Edwards gave tirelessly of his time and talents to his church, being an active member and serving in all lay capacities; and

Whereas, He actively promoted and guided Fort Worth's development as mayor and member of the City Council. He accepted many other positions of civic responsibility and leadership and he further served his fellowman as a teacher in our public schools; and

Whereas, The Senate of Texas wished to recognize great contributions of this distinguished citizen; now, therefore, be it

Resolved, That the sincere sympathy of the Senate of Texas be extended to the family of J. R. Edwards and when the Senate adjourns today, it do so in his honor and memory; and, be it further

Resolved, That a copy of this resolution be sent to the members of his family with the deepest sympathy of the Senate and that a page in the Senate Journal be set aside as a tribute and memorial to his memory.

The resolution was read and was adopted by a rising vote of the Senate.